

**Sony Computer Entm't, Inc. v. Connectix Corp.,
203 F.3d 596 (9th Cir. 2000)**

Year	2000
Court	United States Court of Appeals for the Ninth Circuit
Key Facts	<p>Plaintiff Sony Computer Entertainment, Inc. produced and marketed the Sony PlayStation video game console. Sony owned the copyright to BIOS, the software program that operated the PlayStation. Defendant Connectix Corporation made and sold a software program called “Virtual Game Station.” The purpose of the Virtual Game Station was to emulate on a regular computer the functioning of the Sony PlayStation console, so that computer owners who buy the Virtual Game Station software can play Sony PlayStation games on their computers. In order to create the Virtual Game Station, Connectix “reverse engineered” Sony’s BIOS program. As part of the reverse engineering process, Connectix made several intermediate copies of the BIOS program. Sony sued Connectix for copyright infringement.</p> <p>The district court concluded that Sony was likely to succeed on its infringement claim because Connectix’s “intermediate copying” was not a protected fair use. The court also enjoined Connectix from selling the Virtual Game Station and copying or using Sony’s BIOS program in the development of other Virtual Game Station products.</p>
Issue	Whether Connectix’s intermediate copying of a copyright protected computer program for reverse engineering purposes qualified as fair use.
Holding	The circuit court reversed the district court’s ruling and remanded the case with instructions to dissolve the injunction against Connectix. The court concluded that the intermediate copies Connectix made and used during the course of its reverse engineering of the BIOS program were protected fair use, necessary to permit Connectix to make its non-infringing Virtual Game Station function with PlayStation games. In reaching its conclusion, the court found that three of four fair use factors—the purpose and character of the use the nature of the copyrighted work, and the effect of the use upon the potential market for the work—all weighed in favor of fair use. Although the court found that Connectix copied the entire BIOS program, it concluded that this factor warranted “very little weight” in cases of “intermediate infringement” where “the final product does not itself contain infringing material.”
Tags	Ninth Circuit; Computer program
Outcome	Fair use found

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